

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BRETT CHRISTIAN, et al.,

Plaintiffs,

v.

DOMINICK L. CHIUMENTO, et al.,

Defendants.

JOINT STATUS REPORT

Case No.: 1:22-cv-695-JLS

1. This joint status report is submitted per the Court's Text Order, dated December 20, 2023 (Dkt. 69), and describes the parties' positions on further proceedings in light of the United States Court of Appeals for the Second Circuit's decision in *Antonyuk v. Chiumento*, No. 22-2908, 2023 WL 8518003 (2d Cir. Dec. 8, 2023).

2. The Second Circuit's consolidated decision in *Antonyuk* dealt with, among other things, the State's appeal of this Court's Decision and Order (Dkt. 49), enjoining enforcement of the Concealed Carry Improvement Act's ("CCIA") "restricted location" no-carry default for private property open to the public, Penal Law § 265.01-d.

4. The Second Circuit affirmed this Court's injunction. *Antonyuk*, 2023 WL 8518003, at *2, 79, 81-85.

5. In addition to challenging the CCIA's "restricted location" provision, Plaintiffs also moved this Court to enjoin enforcement of the CCIA's "sensitive location" bans on concealed carry in public parks and on public transportation (Dkt. 19).

6. On December 21, 2022 (Dkt. 60), this Court stayed Plaintiffs’ challenge to the public parks and public transportation provisions pending the Second Circuit’s decision in *Antonyuk*.

7. Following the Second Circuit’s decision in *Antonyuk*, the parties propose the following further proceedings:

- (a) Plaintiffs request 30 days to move for summary judgment on its challenge to (i) the “restricted location” no-carry default for private property, (ii) the public parks “sensitive location” provision, and (iii) the public transportation “sensitive location” provision;
- (b) Defendant Chiumento requests that this Court’s stay regarding the public transportation provision—which provision was not addressed by the Second Circuit in *Antonyuk*—be continued pending the Second Circuit’s forthcoming decision in *Frey v. Chiumento*, Case No. 23-cv-365. Argument in *Frey* will take place at the Second Circuit on January 28, 2024. Plaintiffs oppose this request for a continued stay;
- (c) Defendant Chiumento requests 90 days from Plaintiff’s summary judgment filing to file his cross-motion for summary judgment and his opposition to Plaintiffs’ motion for summary judgment;
- (d) Plaintiffs oppose this request, and instead propose 30 days for Defendants to oppose the motion for summary judgment;
- (e) With respect to Plaintiffs’ time in which to respond to Defendant’s cross-motion for summary judgment and reply in further support of summary

judgment, Plaintiffs request one half of the time defendants are afforded to oppose the motion.

(f) Defendant Chumiento requests 30 days to file a reply in further support of his motion for summary judgement.

(f) Defendant Flynn takes no position at this time.

Dated: Buffalo, New York
January 18, 2024

LETITIA JAMES
Attorney General
State of New York

By: /s/ Ryan L. Belka
RYAN L. BELKA
JAMES M. THOMPSON
Assistant Attorneys General
350 Main Place, Suite 300A
Buffalo, NY 14202
(716) 853-8440
Ryan.Belka@ag.ny.gov
James.Thompson@ag.ny.gov

PHILLIPS LYTLE LLP

By /s/ Nicolas J. Rotsko
Nicolas J. Rotsko
One Canalside
125 Main Street
Buffalo, New York 14203-2887
Telephone No.: (716) 847-8400
NRotsko@phillipslytle.com

David H. Thompson*
Peter A. Patterson*
COOPER & KIRK, PLLC
Attorneys for Plaintiffs
1523 New Hampshire Avenue, N.W.
Washington, D.C. 20036
(202) 220-9600
(202) 220-9601 (fax)
dthompson@cooperkirk.com
ppatterson@cooperkirk.com
*Admitted *pro hac vice*

CERTIFICATE OF SERVICE

I hereby certify I filed the foregoing with the Clerk of the District Court using its CM/ECF system on this 18th day of January 2024.

/s/ Ryan Belka
Ryan L. Belka

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